

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK**

**COURTNEY DAVIS, EMPLOYEES COMMITTED  
FOR JUSTICE, et al.,**

**Plaintiffs,**

**v.**

**EASTMAN KODAK COMPANY,**

**Defendant.**

FILED

2007 OCT 16 AM 10:49

U.S. DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

**DECISION AND ORDER  
04-CV-6098**

Pursuant to the Stipulation and Order dated July 17, 2007 (Docket # 251), the parties have resolved the dispute regarding the unsealing of documents plaintiffs submitted in support of their motion for class certification. While Kaleel Jamison Consulting Group ("Jamison") has objected to the unsealing of certain documents, that matter will be the subject of a separate application by Jamison's counsel.

The remaining dispute between the parties involves Kodak's intent to notify its current and former employees who are named in plaintiffs' previously sealed certification motion. Kodak intends on notifying these individuals that information and/or allegations regarding them will now be publicly available. Plaintiffs seek prior approval of any communications Kodak has with these individuals because they may be potential witnesses. Kodak objects to this proposal.

Plaintiffs' request for prior approval of any communication with Kodak's current and former employees is **denied**. The fact that

Kodak wants to notify current and/or former employees of the agreement to unseal documents which contain information about these individuals is understandable and appropriate. The Court has no basis to impute any improper intentions by Kodak as part of the notification process. In an abundance of caution, the Court directs that the notification be conducted by Kodak's counsel who will be cognizant of the ethical obligations inherent in communicating with potential witnesses in a pending lawsuit. See International Business Machines Corp. v. Edelstein, 526 F.2d 37, 42 (2d Cir. 1975) (Recognizing a "time-honored and decision-honored principle" that counsel for all parties may interview an adverse party's witnesses "in private, without the presence or consent of opposing counsel").

Kodak shall have until October 31, 2007 to notify these individuals. The Court will issue an order to unseal the documents plaintiffs submitted in support of their motion for class certification or after October 31, 2007.

/s/ Jonathan W. Feldman

Hon. Jonathan Feldman  
UNITED STATES MAGISTRATE JUDGE

Dated: October 16, 2007  
Rochester, New York